

SENATE BILL No. 538

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-5-44; IC 6-3-2-21.

Synopsis: Tax free art districts. Exempts from the gross retail and use taxes the sale of original and creative works of art in an arts and cultural district. Provides that an arts and cultural district must be established by a local economic development commission and be certified by the Indiana arts commission. Exempts from state and local adjusted gross income tax the income of a writer, a composer, or an artist who has a business located in an arts and cultural district. Provides that the income tax exemption applies to that part of the individual's income that is derived from sources within the arts and cultural district and is attributable to original and creative works of art created within the district.

Effective: July 1, 2009; January 1, 2010.

Simpson

January 15, 2009, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 538

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-5-44 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 44. (a) A used in this section, "arts and cultural**
4 **district" refers to a district that:**

5 (1) **was established by an economic development commission**
6 **under IC 36-7-12; and**

7 (2) **has been certified by the Indiana arts commission as an**
8 **arts and cultural district under IC 4-23-2-7.**

9 (b) **As used in this section, "original and creative work" means**
10 **a process or an activity, or both, whether written, composed,**
11 **created, or produced, for a one-of-a-kind limited production in one**
12 **(1) of the following categories:**

13 (1) **A book or other writing.**

14 (2) **A play or the performance of a play.**

15 (3) **A musical composition or the performance of a musical**
16 **composition.**

17 (4) **A painting or other like picture.**



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(5) A sculpture.

(6) A traditional and fine craft.

(7) The creation of a film or the acting within a film.

(8) The creation of a dance or the performance of a dance.

The term includes any tangible personal property resulting from an original and creative work. The term does not include tangible personal property used for an industry oriented or related production.

(c) A transaction involving an original and creative work is exempt from the state gross retail and use taxes if the transaction occurs in an arts and cultural district.

(d) A purchaser that makes a purchase in a transaction that is exempt from the state gross retail and use taxes under this section shall sign an exemption certificate provided by the retail merchant under IC 6-2.5-8-8 or pay the tax.

SECTION 2. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21. (a) As used in this section, "arts and cultural district" has the meaning set forth in IC 6-2.5-5-44.

(b) As used in this section, "commission" refers to the Indiana arts commission created by IC 4-23-2-1.

(c) As used in this section, "original and creative work" has the meaning set forth in IC 6-2.5-5-44.

(d) The exemption provided by this section applies only to an individual who has been designated by the commission as being eligible for the exemption. In January each year, the commission may adopt a resolution under IC 4-23-2-1(e) designating an individual or individuals as eligible for the exemption for the previous year. To designate an individual for the exemption, the commission must find that during the previous year the individual:

(1) was a writer, composer, or artist;

(2) either solely or jointly wrote, composed, created, or produced an original and creative work in the arts and cultural district; and

(3) had a business located within the territory of the arts and cultural district.

(e) The commission shall provide the department with a copy of the resolution listing the individuals the commission has designated for the previous year.

(f) The part of an individual's adjusted gross income that was derived from:

(1) sources within an arts and cultural district; and

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1 (2) an original and creative work that was written, composed,
 2 created, or produced in a district;
 3 is exempt from the adjusted gross income tax imposed by IC 6-3-1
 4 through IC 6-3-7.

5 SECTION 3. [EFFECTIVE JULY 1, 2009] (a) For purposes of
 6 IC 6-2.5-5-44, as added by this act, the following apply to a
 7 transaction by a retail merchant described in IC 6-2.5-5-44:

8 (1) Except as provided in subdivision (2), a transaction shall
 9 be considered as having occurred after June 30, 2009, to the
 10 extent that delivery of the property constituting selling at
 11 retail is made after that date to the purchaser or to the place
 12 of delivery designated by the purchaser.

13 (2) A transaction shall be considered as having occurred
 14 before July 1, 2009, to the extent that:

15 (A) the agreement of the parties to the transaction is
 16 entered into before July 1, 2009; and

17 (B) payment for the property furnished in the transaction
 18 is made before July 1, 2009;

19 notwithstanding the delivery of the property or services after
 20 June 30, 2009.

21 (b) This SECTION expires July 1, 2010.

22 SECTION 4. [EFFECTIVE JULY 1, 2009] IC 6-3-2-21, as added
 23 by this act, applies to taxable years beginning after December 31,
 24 2009.

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